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82-0162/5

82-4277/5

9 MAR 1982

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MEMORANDUM FOR: Executive Director  
FROM: Harry E. Fitzwater  
Deputy Director for Administration  
SUBJECT: Implementation of NSDD-19

1. The proposed implementation of NSDD-19, provided by the Executive Secretary, NFIC/NFIB on 3 March 1982, has been reviewed. In general, the implementation procedures appear to be sound and consistent with current security practices.

2. There are certain specific items upon which you may wish to comment:

- Access Procedures

The directive to immediately review access and dissemination practices, while sound from a security standpoint, may be viewed negatively in the Community. Most managers of access programs probably consider that they maintain continuing oversight over access and dissemination practices and procedures.

- Cover Sheets

The draft, as written, may require the redesign of cover sheets currently employed for Sensitive Compartmented Information (SCI).

- Personal Accountability

The initiative to require those with access to SCI to sign a nondisclosure agreement with a specific requirement for prepublication review should be supported.

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- Contacts with the News Media

The phrasing of this passage could be construed as an attempt to prohibit all contact with the media and will probably encounter difficulty in the Community. It might be preferable to confine the requirement to mandating advance SIO approval or concurrence for news media contact. There should also be a requirement for after-the-fact reporting of contacts which may have been unavoidable. The prohibition of the discussion of classified information in any contact with the news media, of course, should be strongly supported.

3. If any further comment is desired, please advise me.

[Redacted Signature Box]

Harry E. Fitzwater

STAT

Distribution:

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1 - ER

• Contacts with the News Media

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Harry E. Fitzwater

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ORIGINATOR:

  
Director of Security

8 MAR 1982

Date

## ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Implementation of NSDD-19

FROM: Harry E. Fitzwater  
Deputy Director for Administration  
7-D-24 Headquarters

EXTENSION

NO.

DATE

9 MAR 1982

TO: (Officer designation, room number, and building)

DATE

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COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

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Executive Director  
7-D-55 Hqs.

✓ 3/10

DN

trans -

2. *EDDA*

10 MAR 82 *JA*

3.

4. *O/Os*

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Washington, D.C. 20530

March 11, 1982

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FILE

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MEMORANDUM FOR WILLIAM J. CASEY  
Director, Central IntelligenceRe: Proposed Procedures Implementing NSDD-19

You have requested our comments on draft procedures that are proposed to implement the February 2, 1982 memorandum from the Assistant to the President for National Security Affairs that superceded NSDD-19. That memorandum establishes procedures for protecting classified National Security Council information and directs you to develop "similar procedures for protection of classified intelligence information." As is explained further below, the proposed procedures do both too much and too little in implementing this directive.

The requirement that all persons with access to this information enter into a nondisclosure agreement specifically requiring prepublication review goes well beyond the requirements of Judge Clark's memorandum and is not "similar" to anything in the NSC procedures. Further, a new SCI non-disclosure agreement recently was promulgated for CIA and other entities were encouraged to adopt the prepublication provision in that agreement. The Justice Department is considering adopting that form and we believe an affirmative decision on that issue will be reached here. That consideration is premised in part on the narrow definition and ready identifiability of SCI. The proposed requirement, however, goes beyond even the obscure definition of "sensitive intelligence information" contained in the procedure and requires submission of any material "concerning or related to intelligence matters." I do not believe that such a broad requirement is either authorized by Judge Clark's memorandum, or is necessary or advisable in this context and I doubt whether DOJ would accept such a mandate. This requirement should be deleted.

The provision on investigations of unauthorized disclosures states that use of the polygraph is appropriate in internal inquiries into such disclosures. This also is dissimilar from the NSC procedures. Further, it should be made clear that such investigations must be limited so as to not jeopardize subsequent proceedings by the FBI and Justice and to avoid

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entangling the intelligence agencies in law enforcement activities. Also, the extent of such inquiries is limited by the procedures for reporting crimes under section 1.7(a) of Executive Order 12333 and by the requirement in section 1.7(b) of that order that serious or continuing security breaches should be referred to the Attorney General and the FBI. The reference to the polygraph should be revised to make clear that the use of that investigative tool remains a matter of internal policy and regulation.

We do not read the provision concerning media contacts to apply outside the Intelligence Community as defined in E.O. 12333. This requirement also goes beyond Judge Clark's memorandum and the NSC procedures. It should be made clear, at best, that agencies should use or attempt to develop established procedures for media contacts and clearances within their respective entities.

The procedures apply to "sensitive intelligence information." That term is defined to include essentially only Sensitive Compartmented Information (SCI). It is not clear what "special access program" information, if any, would not also be SCI. Unless the third category is intended somehow to extend beyond the concept of "intelligence information" as described in Judge Clark's memorandum, it is superfluous. If this is the intention, the procedures exceed the authority provided in that memorandum. At the same time, however, the procedures do not take full advantage of the authority provided in that memorandum by their limitation to SCI and special access programs. The memorandum authorizes procedures applicable to all "classified intelligence information." This can be cured by defining "classified intelligence information" as foreign intelligence and counterintelligence information, (as those terms are defined in E.O. 12333) and properly classified under Executive order. Unless the changes identified in the earlier paragraphs of this memorandum are accepted, however, this change will exacerbate the problems of scope and coverage identified in those paragraphs.

Finally, it should be noted that Judge Clark's memorandum requests the DCI to develop for NSC consideration "procedures for protection of sensitive intelligence information within its [NSC] control." While further NSC guidance may be necessary in this regard, it appears that what was requested by the NSC was

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merely a procedure for protecting intelligence information in the hands of the NSC rather than a procedure which is intended to apply to other agencies and departments.

We would be happy to discuss our proposed changes further with your representatives.



MARY C. LAWTON  
Counsel for Intelligence Policy  
Office of Intelligence Policy and Review

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Remarks:

D/ Executive Secretary  
12 March 1982  
Date

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